

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

&

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

LA.App..No. 1317 of 2003(D)

LAR.1/1997 of SUB COURT, CHERTHALA

APPELLANT: CLAIMANT.

K.P.PADMAVATHY AMMA, W/O.LATE
KARUNAKARAN PILLAI, AGED 57, KOYIKKAL BHAVANAM,
ARoor VILLAGE, AROOR MURI, CHERTHALA TALUK.

BY ADV. SRI.V.N.SANKARJEE
SRI.V.N.MADHUSUDANAN

RESPONDENTS: RESPONDENT.

KERALA STATE REP. BY THE
SPECIAL TAHSILDAR (L.A.)NATIONAL HIGWAY,
CHERTHALA.

BY GOVT.PLEADER SRI.K.V.MANOJKUMAR.

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION
ON 25/10/2007, ALONG WITH LAA NO. 1152 OF 2003 THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.Nos.1317 & 1152 of 2003

Dated 25th October, 2007.

J U D G M E N T

Kurian Joseph, J.

These are appeals filed by the claimant and the State respectively against LAR 1/1997 on the file of the Sub Court, Cherthala. The acquisition is for the purpose of Aroor-Arookutty bridge and approach road. The extent involved in the case is only 0.72 Ares. Section 4(1) notification is dated 25.3.1992. The Land Acquisition Officer fixed the land value at Rs.12,149/- per Are, which was enhanced by the reference court to Rs.17,297/- per Are. It is seen that the acquisitioning authority had not produced the basic document before the court and no attempt was made to prove the fixation of the market value by the Land Acquisition Officer on the basis of the basic document. On the part of the claimant, she had produced the commission report in O.S.338/92(Ext.A1), and Exts.A2 and A3 documents. As far as Exts.A2 and A3 documents are

concerned, as rightly pointed out by the learned Government Pleader, the same cannot be fully relied upon since those are properties situated on the side of the National Highway, whereas the acquired property is on the side of Vembanad lake. According to the claimant, the property is accessible both from the ferry as well as the road. Be that as it may, as per the report of the Advocate Commissioner, the value at the time of acquisition is around Rs.8,000/- per cent. Being a small extent and since the enhancement is only nominal, we do not think that this court should interfere with the land value. In the appeal filed by the claimant, the contention is that they are entitled to have the land value fixed at least at the rate of Rs.20,000/- per cent. As already noted above, even according to the Advocate Commissioner, the value at the time of acquisition is only around Rs.8,000/- per cent. As far as the grievance regarding retaining wall is concerned, the reference court has observed that there is no evidence at all available. On the value of the building, it is seen that the

reference court has fixed the value of the building on the basis of the report of the Advocate Commissioner after deducting the depreciation. Therefore, we do not find any ground to grant enhancement on the grounds taken by the claimant. We dismiss the appeal filed by the State as well as the claimant; however making it clear that in case the claimant has not been granted interest on solatium and other statutory benefits, the same shall be granted.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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